

Appl. No. 10/506,612  
Amendment dated: November 29, 2006  
Reply to OA of: August 30, 2006

### **REMARKS**

Applicants have amended the claims to more particularly define the invention in view of the outstanding Official Action. Applicants note with appreciation the Examiner's indication of allowable subject matter for claim 24. Claims 1, 16 and 25 have been amended to incorporate the allowable limitation from claim 24 which the Examiner has indicated in the outstanding Official Action to contain allowable subject matter over the cited prior art. Clearly, claim 1 is allowable and for the same reason, claims 16 and 25 are now also allowable. Claim 24 has been canceled from the present application in view of the redundancy of the claim and, therefore, it is most respectfully requested that the objection to this claim be withdrawn.

Claim 1 has also been amended to incorporate that the optimal setting of the pacemaker may be determined by monitoring the stroke volume or the arterial pulse pressure variation of the heart and selecting a pacemaker setting which provides an increased ventricle pre-load responsiveness. Support for the addition of reference to "arterial pulse pressure" can be found throughout the application as originally filed.

In particular, reference can be made to page 12, line 28 to page 13, line 3 of the application as originally filed where it is stated that arterial pressure can be used as an indicator of pre-load responsiveness. On page 4, line 25 to 27 of the application as originally filed, it is stated that there are certain advantages of utilizing stroke volume or arterial pulse pressure across the respiratory cycle in order to determine the optimal settings for a pacemaker. Finally, at page 9, line 25 to page 10, line 2 of the application as originally filed, arterial pulse pressure is defined in more detail. It is stated here that changes in arterial pressure may be monitored instead of changes in the stroke volume. Accordingly, the passages referred to above are considered to support the amendment made to claim 1.

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Furthermore, apparatus claim 25 has been amended to incorporate the additional product feature corresponding to that found in method claim 1 as amended. Accordingly, the apparatus now also incorporates means for determining the optimal setting of the pacemaker when synchronization has been obtained. Since this apparatus feature conforms to the essential method features of the present invention, it is considered that there is adequate support for this feature in the original application as filed and that this claim is now allowable.

Applicants most respectfully submit that all of the claims now present in the application are in full compliance with 35 USC 112 and clearly patentable over the references of record.

The rejection of claims 1-3, 12-14, 16, 17, 20-22 and 25 under 35 U.S.C. 102(b) as being anticipated by Tockman et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims. Since independent claim 1 has been rewritten to include the limitation from allowable claim 24, it is believed that claim 1 is clearly allowable. For similar reasons it is also submitted that claims 16 and 25 are also allowable. Moreover, the claims which are dependent on the allowable claims are equally allowable. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 4-7 under 35 U.S.C. 103(a) as being unpatentable over Tockman in view of Band has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the above comments. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 8-10 under 35 U.S.C. 103(a) as being unpatentable over Tockman in view of Band has been carefully considered but is most respectfully traversed in view of the amendments to the claims.

The rejection of claims 11 and 19 under 35 U.S.C. 103(a) as being unpatentable over Tockman in view of Official Notice and Reinhard has been carefully considered but is most respectfully traversed in view of the amendments to the claims and for the

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above discussed reasons. Accordingly, it is most respectfully requested that this rejection be withdrawn.

The rejection of claims 15 and 23 under 35 U.S.C. 103(a) as being unpatentable over Tockman in view of Official Notice has been carefully considered but is most respectfully traversed in view of the amendments to the claims and for the above discussed reasons. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Applicants note that the outstanding official action does not acknowledge the claim for priority and receipt of the priority document. The image file wrapper has been reviewed and it is noted that the certified copy of the priority document is of record in this file. Accordingly, it is most respectfully requested that the next Official Action contain an acknowledgment of the claim for priority and receipt of the priority document.

In view of the above comments and further amendments to claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,  
BACON & THOMAS, PLLC

By:   
Richard E. Fichter  
Registration No. 26,382

625 Slaters Lane - 4th Floor  
Alexandria, Virginia 22314  
Phone: (703) 683-0500  
Facsimile: (703) 683-1080

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